

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BART S. HERSKO,	:	Case No. 3:15-cv-215
	:	
Plaintiff,	:	Judge Thomas M. Rose
	:	
v.	:	
	:	
DEBORAH LEE JAMES, Secretary of the	:	
United States Air Force, et al.,	:	
	:	
Defendant.	:	

**ENTRY AND ORDER GRANTING MOTION FOR ADDITIONAL TIME TO
CONDUCT DISCOVERY (DOC. 60) AND MOTION TO COMPEL THE ORAL
DEPOSITION OF STEPHEN SAYEEDI (DOC. 61)**

This case is before the Court on the Motion for Additional Time to Conduct Discovery (Doc. 60) and Motion to Compel the Oral Deposition of Stephen Sayeedi (Doc. 61) filed by Plaintiff Bart Hersko (“Plaintiff”). Defendant, the Secretary of the United States Air Force, (“Defendant”) filed a Response in Opposition (Doc. 64) to the Motions, which are now ripe for review. While both parties have reasonable arguments in support of their respective positions, in the interest of trying this case on the merits, the Court finds in favor of Plaintiff’s request for leave to take the deposition of Mr. Sayeedi. Plaintiff requested Mr. Sayeedi’s deposition during the discovery period (albeit late in the discovery period) and it could have been timely completed but for Mr. Sayeedi’s medical condition—for which neither party is to blame. In addition, Defendant’s Motion for Summary Judgment shows that Mr. Sayeedi is a central figure in this case, whom Plaintiff should be permitted to cross-examine in the interest of justice. Mr. Sayeedi’s medical condition makes it all the more important that Plaintiff be afforded this opportunity now because it is possible that he may not be available for trial—assuming, for these purposes, that this case

survives Defendant's Motion for Summary Judgment.

For all these reasons, Plaintiff's Motion for Additional Time to Conduct Discovery (Doc. 60) and Motion to Compel the Oral Deposition of Stephen Sayeedi (Doc. 61) are **GRANTED**. Plaintiff shall be permitted until November 21, 2017 to conduct the deposition of Mr. Sayeedi. Plaintiff may depose Mr. Sayeedi for no longer than 1 day of 7 hours, as permitted under Fed. R. Civ. P. 30(d)(1). In order to accommodate Mr. Sayeedi's medical condition, if Mr. Sayeedi so requests, the parties shall conduct Mr. Sayeedi's deposition over the course of two days, the total duration of which still shall not exceed 7 hours. No other discovery is permitted. Plaintiff's response to Defendant's Motion for Summary Judgment shall be due December 5, 2017.

DONE and **ORDERED** in Dayton, Ohio, this Thursday, October 26, 2017.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE